



Steven K. Young, Director

Director Issues Orders In Response to St. Luke's Hospital Petitions

DES MOINES, IOWA (May 22, 2006) – Iowa Department of Inspections and Appeals (DIA) Director Steve Young today issued two orders in response to petitions presented to the Department by St. Luke's Hospital located in Cedar Rapids, Iowa. Both petitions caused the Department to examine a longstanding, restrictive interpretation of the term "premise" as it relates to the licensure of a hospital.

In a Petition for Declaratory Order, St Luke's Hospital sought to have the Department include within the term "premise" a designated portion of the building or structure. DIA has long held the term "premise" to be restrictive, the result of which precluded having a hospital license located within the same building of another hospital license holder (known as a "hospital within a hospital"). The Director denied this petition indicating the question presented was best resolved through rulemaking. Had the Declaratory Order been granted, St. Luke's Hospital would have been the only facility to benefit immediately from the Department's action.

The Director did, however, grant the Petition for Rulemaking, noting the issue presented was one of first impression for the Director. The Department will begin to immediately review Iowa law and the Department's historic interpretation of the term "premise." Until now, the Department has always viewed Iowa Code Chapter 135B as permitting a hospital licensed premise that may consist of multiple buildings but did not permit the licensing of a hospital within the premises of an existing, licensed hospital. The Order indicates that under the historical interpretation, a single licensed building could not be portioned to house multiple hospital licensees.

The Department's current rules and interpretation have not kept pace with recently emerging federal Medicare policies that affect health care delivery systems in all states, including Iowa, the Director noted in his Order, adding: "[T]he Department's current rules are not reflective of changing patient demographics that are more closely reflected by the current federal Medicare rules, which now provide a reimbursement system for long-term acute care hospitals."

In granting the Petition for Rulemaking, the Director reminded health care facilities of the separate Certificate of Need process under which the Iowa Health Facilities Council must evaluate new or changed health services and institutional health services. "The Department's licensure rules and determinations are not binding upon the Health Facilities Council and are not intended to influence that body in any manner," Young stated in his Order, further adding: "The Department's rulemaking process shall expressly limit hospital licensure within a currently licensed hospital to only long-term acute care hospitals and shall expressly exclude specialty hospitals currently recognized within the federal Medicare system."

In his Order, Director Young emphasized that in granting the Petition for Rulemaking this is not to say that the Department had determined that a need exists for a specialty hospital within a hospital, noting that this determination is solely within the purview of the Health Facilities Council. The analysis supporting the Order did not consider the implications of Medicare cost reimbursement, which was irrelevant to interpreting the Department's longstanding interpretation of "premise." Need is an issue for the Health Facilities Council to evaluate, the Director noted in the Order.

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Note: Copies of the Director's orders denying the Request for Declaratory Order and granting the Petition for Rulemaking can be found on the Department's *Hot Notices* web page at <http://www.state.ia.us/government/dia/page20html>.